

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.4241 of 2015

ORDER:

The order under challenge in this revision is the order passed by the Principal Junior Civil Judge, Narsipatnam in I.A.No.184 of 2015 in O.S.No.319 of 2002 dated 14.08.2015.

The petitioners herein are the defendants in O.S.No.319 of 2002 and petitioners in I.A.No.184 of 2015. I.A.No.184 of 2015 was filed under Order 26 Rule 9 r/w. Section 151 CPC to appoint an Advocate-Commissioner to note down the physical features of the suit schedule property. The Suit in O.S.No.319 of 2002 was filed by the respondents herein for declaration of title, possession and permanent injunction.

In the order under revision, the Court below noted the submission urged on behalf of the respondents that there were no bona-fides in the petition; the petition was filed only to drag on the proceedings; and the respondents-plaintiffs had advanced arguments more than 1 ½ years ago. The Court below observed that O.S.No.319 was filed in the year 2002; evidence in the Suit was completed and the Suit was posted for arguments in the year 2012; the petitioners in the I.A. (defendants in the Suit) had not taken any steps to file the petition for appointment of an Advocate-Commissioner ever since the year 2002; and the petition was filed only to drag on the proceedings.

As is evident from the order under challenge in this revision, the respondents-plaintiffs had advanced arguments more than 1½ years ago in the year 2013 itself after the matter was posted for arguments in the year 2012. The finding of the Court below that the application was filed only to drag on proceedings is based on the material on record. The order of the Court below does not suffer from any patent illegality necessitating interference in the proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

Date:30.10.2015.
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(RAMESH RANGANATHAN, J)